



Atty. Dkt. No. 053466-0395

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Noboru MAKI et al.
Title: HBV PRECORE PROTEIN HAVING A PARTICLE-FORMING ABILITY
Appl. No.: 10/526,744
International Filing Date: 9/5/2003
371(c) Date: 3/25/2005
Patent No.: 7,713,532
Grant Date: 5/11/2010
Examiner: Bo PENG
Art Unit: 1648
Conf. No.: 7902

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR
PATENT UNDER 37 C.F.R. §1.705(d)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants have calculated PTA for the captioned patent and have determined that the patent is entitled to 703 days of Patent Term Adjustment, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702, 1.703 and 1.704:

(a) Total PTO delay: 790 days

(b) Total Applicant delay: 87 days

Final PTA Determination under 37 CFR §1.703(f): 703 days

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In accordance with 1.705(b)(2)(ii), the relevant dates as specified in §§1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled are clearly represented in the attached PTA Calculation.

In accordance with §1.705(b)(2)(iv)(A), the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704 are clearly represented in the attached PTA Calculation.

The 55 day discrepancy between Applicants' calculation and the PTO's calculation is presumably between the filing of a Notice of Appeal on January 16, 2009 and the filing of a Request for Continued Examination on March 11, 2009. This reduction is not proper under 35 USC 154(b)(1)(B) (i). 35 USC 154(b)(1)(B)(i) provides that the guarantee of no more than 3-year pendency does not include "any time consumed by continued examination of the application." 37 CFR 1.702(b)(1) contains parallel language. 37 CFR 1.703(b)(1) implements these provisions by counting the number of days "beginning on the date on which a **request for continued examination** . . . was filed and ending on the date the patent was issued." (emphasis added) 37 CFR 1.703(b)(1) is clear in stating that the "type-B" delay does not include time from the RCE date to the issue date. Thus, Applicants believe that the Office's PTA calculation using the **notice of appeal date** to the issue date is in clear error. Therefore, Applicants respectfully request adjustment of the "B-type" delay to 369 (314 + 55) days.

Applicants therefore respectfully request that the patent be accorded 703 days PTA.

A credit card payment form in the amount of \$200.00 to cover the fee stated in 37 C.F.R. § 1.18(e) is enclosed for this request.

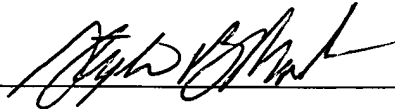
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. § 1.705, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment form being unsigned, providing incorrect information resulting in a rejected credit

card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date JUN 02 2010

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By 

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Attorney for Applicant
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Patent Term Adjustment Calculation System



Add a new event to this case

Docket Number: 053466-0395

Application Number: 10/526744

Patent Number: N/A

| | Event Description | Event Date | Days from Filing | PTO Days | Applicant Days |
|-------------|--|------------|------------------|----------|----------------|
| Edit Delete | Priority Date | 09/06/2002 | -912 | | |
| Edit Delete | International Filing Date | 09/05/2003 | -548 | | |
| | PCT National Stage Commencement Date | 03/06/2005 | 0 | | |
| Edit Delete | National Stage Transmittal (NOT all 371(c) & (f) Requirements Met) | 03/07/2005 | 1 | | |
| Edit Delete | National Stage Entry (All 371(c) & (f) Requirements Met) | 03/25/2005 | 19 | | |
| Edit Delete | Notice to File Missing Parts | 07/27/2005 | 143 | | |
| Edit Delete | Response to Notice of Missing Parts | 09/13/2005 | 191 | | |
| | 14 month From Application date | 05/25/2006 | 445 | | |
| Edit Delete | Restriction Requirement | 06/25/2007 | 841 | 396 | |
| Edit Delete | Restriction Requirement Response Received at PTO | 08/24/2007 | 901 | | |
| Edit Delete | Non-Final Office Action | 12/14/2007 | 1,013 | | |
| | 3 Year Period Starts | 03/06/2008 | 1,096 | | |
| Edit Delete | Non-Final Office Action Rsp. Rcv'd at PTO | 03/14/2008 | 1,104 | | |
| | Non-Final Office Action Rsp. Rcv'd at PTO + 4 mo | 07/14/2008 | 1,226 | | |
| Edit Delete | Final Office Action | 07/21/2008 | 1,233 | (7) | |
| | Final Office Action + 3 months | 10/21/2008 | 1,325 | | |
| Edit Delete | Notice of Appeal Received at PTO | 01/16/2009 | 1,412 | | 87 |
| | 3 Year Period Stopped | 03/10/2009 | 1,465 | 369 | |
| Edit Delete | Request For Continued Examination (including amendment) | 03/11/2009 | 1,466 | | |
| Edit Delete | Non-Final Office Action | 04/29/2009 | 1,515 | | |
| Edit Delete | Non-Final Office Action Rsp. Rcv'd at PTO | 07/24/2009 | 1,601 | | |
| Edit Delete | Notice of Allowance | 09/17/2009 | 1,656 | | |
| Edit Delete | Issue Fee Paid | 12/16/2009 | 1,746 | | |
| | Issue Fee Paid + 4 months | 04/16/2010 | 1,867 | | |
| Edit Delete | Patent Grant Date | 05/11/2010 | 1,892 | 25 | |
| | | | Totals: | 790 | 87 |
| | | | PTA: | 703 | |



Version: 3.02.05

LOGIN: Karen Walker

IP: 10.14.41.156

Foley & Lardner LLP